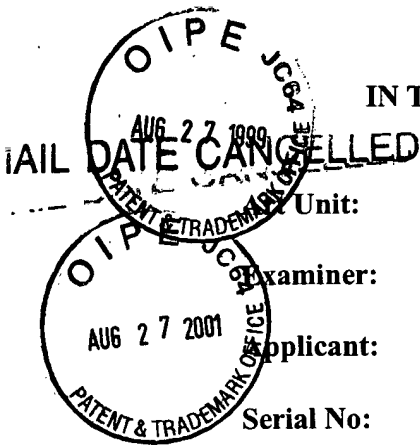


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#13

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE



Unit:

Examiner:

Applicant:

Wittwer, Bruno

Serial No:

09/831,615

Filing Date:

May 10, 2001

For:

PISTON PUMP

PETITION UNDER 37 CFR §1.47(b)

Assistant Commissioner for Patents  
Washington, DC 20231

Dear Sir:

In response to the Notice to File Missing Parts of Nonprovisional Application mailed March 13, 2001, Applicant hereby petitions the Assistant Commissioner to treat the sole inventor as hostile for refusing to forward the executed Declaration/Power of Attorney under 37 CFR §1.63 to the office of the undersigned for eventual filing with the United States Patent and Trademark Office. Applicant has previously submitted the requisite fee of \$130.00 required by the Notice of Missing Parts when filing the patent application and, therefore, no fee is submitted herewith.

The facts surrounding the unsigned Declaration/Power of Attorney are as follows:

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1. Mr. Bruno Wittwer of 9 Newborough Street, Scarborough, Western Australia, is the sole inventor for the above-captioned patent application.

2. Mr. Wittwer was the sole owner of a business using the registered name BW Solar.

3. Solar Energy Systems Pty Ltd purchased BW Solar in its entirety on January 22, 1999 for \$100,000 plus a royalty. The Agreement detailing the assignment of the business is attached hereto as Attachment 1.

4. The Agreement states, in part, "BW Solar Business means the solar energy and water pumping business developed by Wittwer and trading as BW Solar including, but not limited to, all patents and other intellectual property, . . . ," (paragraph 1.1 of Agreement, Attachment 1). Paragraph 6.3 thereof states "[a]ll intellectual property acquired by the Company [Solar Energy Systems Pty. Ltd.] pursuant to this Agreement and all intellectual property developed while Wittwer is an employee or consultant to the Company pursuant to this Agreement shall be and remain the property of the Company."

5. On June 22, 2001, Mr. Greg Allen, agent to Solar Energy Systems forwarded the patent application and declaration/power of attorney to Mr. Wittwer requesting execution of the declaration/power of attorney, (Attachment 2).

6. On August 14, 2001, Mr. Wittwer responded to Mr. Allen's request by stating he would not sign the declaration unless he received an additional \$5,000 and permission to exercise certain stock options, (Attachment 3).

7. Mr. Wittwer's request set forth in paragraph 6, above, extends beyond the Agreement (Attachment 1) in that the Agreement does not state additional funding and the exercise of options is allowed for Solar Energy Systems to maintain the enforceability of any rights in and to the intellectual property sold pursuant to the Agreement.

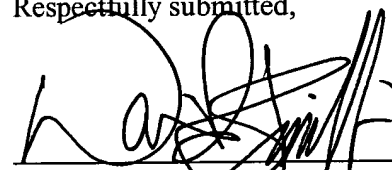
Mr. Wittwer's home address is 21 Southbourne Street, Scarborough, Western Australia 60119, Australia. Applicant respectfully requests that the Assistant Commissioner accept the efforts of Applicant and allow Applicant to prosecute the patent application to its best ability as the patent application is an asset of Applicant.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this Petition is directed.

The Commissioner is hereby authorized to charge any overpayment or underpayment of the above fee associated with this Communication to Deposit Account No. 50-1759. A duplicate copy of this form is attached.

Respectfully submitted,

By:

  
David J. Simonek (Reg. No. 36,680)  
**Clark Hill PLC**  
500 Woodward Avenue, Ste. 3500  
Detroit, MI 48226-3435  
313-965-8300

Date: 27 Aug 01  
Attorney Docket No: 19724-087004